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4 November 1996

MEMORANDUM FOR ALL USACE ETHICS COUNSELORS

SUBJECT: Ethics Counselor Bulletin #4 - Voluntary Separation Incentive Pay (VSIP)  
Reemployment Restrictions

1. The National Defense Authorization Act for FY 93 (P.L. 102-484), Section 5597, created a voluntary separation incentive pay (VSIP) program for civilian employees of the DoD. The Act contained no restrictions on reemployment with DoD or any other Government agency.
2. DOD'S Civilian Assistance and Re-Employment Program (CARE) implemented the VSIP program in DOD CPM 1400.25-M, Chapter 16, Subchapter 7. Section B 2.c.(7) added the following reemployment restriction:

"An employee who receives separation pay cannot register in the DoD Priority Placement Program (PPP) and cannot be reemployed by any DoD installation in any capacity for a period of 12 months from the effective date of that employee's separation. Exceptions may be approved by the appropriate Component Assistant Secretary, or equivalent, on a case-by-case basis."

Upon advice by DoD General Counsel, personal services contracts were included in the 12 month ban on reemployment.

3. With the enactment of the Federal Workforce Restructuring Act of 1994 (P.L. 103-226), the VSIP program was extended to non-DoD agencies. Section 3(d) of the Act requires any employee who received VSIP and accepts reemployment with the Government within 5 years after separation to repay the incentive payment. Section 3(d)(3) defines "employment" to include employment under a personal services contract.
4. The Federal Workforce Restructuring Act also amended the DoD VSIP program. Section 8 of the Act applied the five year repayment rule to DoD employees who received VSIP. Personal service contracts, however, were not included in the definition of "employment".
5. The Federal Workforce Restructuring Act did not supersede any of the provisions of the DoD authorization. It merely added additional provisions. Both Acts still apply to DoD employees who accept VSIP.

6. In summary, DoD employees who accept VSIP are subject to the following reemployment restrictions:

a. Employees are barred from reemployment by DoD for one year after separation (unless approved by the appropriate assistant secretary).

b. Employees may be reemployed during the first five years after separation by non-DoD agencies and during the second through the fifth year after separation by a DoD agency only if the entire VSIP is repaid.

c. Employees may not enter into personal service contracts with DoD for one year after separation. They have no restriction on personal service contracting after separation with non-DoD agencies.

7. Non-DoD employees who accept a VSIP are subject to the following reemployment restrictions:

a. Employees may be reemployed by any agency of the Government (including DoD) during the first five years after separation only if the employee repays the entire VSIP.

b. Employees may enter into personal service contracts with any agency of the Government (including DoD) during the first five years following separation only if they repay the entire VSIP.

8. Please share this memorandum with your Labor Counselor. Questions may be referred to the undersigned (202-761-8543) or Linda Beckles (202-761-8522).

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